

129792

01 MAY 18 PM 4:17

**Docket OST-2000-7088 -20**

**Docket OST-1996-1700 - 166**

Communications with respect to this document should be sent to:

Rebecca L. Taylor  
LEFTWICH & DOUGLAS, P.L.L.C.  
1401 New York Avenue, N.W.  
Washington, D.C. 20005-3922  
(202) 434-9100  
(202) 783-3420 (fax)  
rltaylor@ldpllc.com

**Miguel R. San Juan**  
President, World Trade Division  
**GREATER HOUSTON PARTNERSHIP**  
1200 Smith Street, Suite 700  
Houston, TX 77002  
(713) 658-2488  
(713) 844-0200 (fax)

**Dated: May 18, 2001**

**BEFORE THE  
DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C.**

<u>Joint Application of</u>	)	
	)	
<b>AMERICAN AIRLINES, INC.</b>	)	
<b>and</b>	)	
<b>THE TACA GROUP</b>	)	<b>Docket OST-2000-7088</b>
	)	
<u>for approval of and antitrust immunity for an alliance</u>	)	
<u>agreement under 49 U.S.C. §§ 41308 and 41309</u>	)	
<u>AMERICAN AIRLINES, INC., et al. and</u>	)	
<u>THE TACA GROUP RECIPROCAL</u>	)	<b>Docket OST-1996-1700</b>
<u>CODE-SHARE SERVICE PROCEEDING</u>	)	

**Dated: May 18, 2001**

**ANSWER OF THE CITY OF HOUSTON AND  
THE GREATER HOUSTON PARTNERSHIP**

The City of Houston and the Greater Houston Partnership (collectively, the "Houston Parties") hereby respectfully submit this answer to the application of American Airlines and the TACA Group for antitrust immunity for their alliance; blanket code-share authority; and the revocation of the blocked space condition imposed on American and TACA code-share flights in Miami-Central America city-pairs by DOT Order 98-5-26.

The Houston Parties share the concerns previously expressed by Continental Airlines and other parties in this proceeding that American and TACA, already having entered into the dominant alliance in Central America, are now proceeding towards their endgame. As the Houston Parties forecast in 1997, when American and TACA applied for and were granted code-share authority, "[s]uch market power is unlikely to abate

**Answer of the City of Houston and  
the Greater Houston Partnership  
Page 2**

even where the U.S. is able to negotiate 'open skies' agreements. ... [A]n open skies agreement would undoubtedly trigger a request by American and its foreign partner for ... anti-trust immunity." Comments of the Houston Parties, Docket OST-96-1700, at 4 (Feb. 20, 1997). The forecast has come true and jeopardizes the U.S. public interest.

If further equipped with antitrust immunity, the American-led alliance could be in a position to dominate the U.S.-Central America market in much the same manner that the "chosen instrument" of Pan American and its local affiliates once did.<sup>1</sup> Over the past decade, Houston and Continental have invested in building one of the nation's premier domestic hubs and international gateways at George Bush Intercontinental Airport (IAH). The airport is today the eighth-largest U.S. gateway for international passengers, and the second-largest gateway for traffic to Central America. But services between the U.S. and Central America are still overwhelmingly dominated by American and its Oneworld alliance partners from its Miami mega-hub – a network which American now proposes to integrate with TACA's services to Miami and other U.S. cities.<sup>2</sup> Given the risks of such a throttlehold, the public interest would not be served by granting their alliance antitrust immunity; a grant of immunity likely would enable the American-TACA

---

<sup>1</sup> In addition, American and TACA assert that the blocked-space condition should be revoked because it is "unworkable due to the architectural limitations in the SABRE passenger processing system." Joint Application of American and TACA, Docket OST-1996-1700, at 6 (March 17, 2000). However, they do not dispute that the blocked-space condition continues to be "necessary to guarantee that American and the TACA Group continue vigorous head-to-head competition" in Miami-Central America markets which they would otherwise monopolize. DOT Order 97-12-35, at 30. Moreover, as American well knows, a CRS such as SABRE is obligated to make reasonable efforts to develop software to display code-share services correctly. See DOT Order 94-5-35, at 6-7. If SABRE is unable or unwilling to do so, the remedy is an enforcement complaint against SABRE, and not the revocation of the blocked-space condition.

<sup>2</sup> The Houston Parties also note that American's purchase of Trans World Airlines has further entrenched the carrier's dominant position in U.S.-Latin America markets; TWA's services to the Caribbean had been a growing source of competitive pressure for American.

**Answer of the City of Houston and  
the Greater Houston Partnership  
Page 3**

alliance to quash burgeoning competition from Continental and other carriers, and to maintain an overwhelming lock on services to the region.<sup>3</sup>

WHEREFORE, the Houston Parties urge the Department to carefully review and take appropriate action on American and TACA's application, in light of the dominant position of the carriers in U.S.-Central America markets and the risks that an immunized and unrestricted alliance would pose for continued competition in those markets.

Respectfully submitted,



Rebecca L. Taylor  
LEFTWICH & DOUGLAS, P.L.L.C.  
1401 New York Avenue, N.W.  
Washington, D.C. 20005-3922  
(202) 434-9100  
(202) 783-3420 (fax)  
rltaylor@ldpllc.com

Counsel for the City of Houston  
and the Greater Houston Partnership

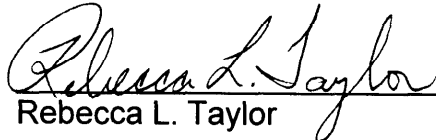
Dated: May 18, 2001

---

<sup>3</sup> The Houston Parties also note that the issues before the Department in this proceeding are completely distinct from those that were at issue in Docket OST-2000-8577, the joint application of Continental and Compañía Panameña de Aviación for antitrust immunity. Additional links between Continental and COPA would enhance competition in U.S.-Central America markets, especially from underserved regions of the U.S. west of Miami. Continental and COPA do not compete in any U.S.-Central America city-pair market. See Order 2001-5-1, at 8. In contrast, serious anti-competitive concerns are at issue in this proceeding.

## CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of May, 2001, a copy of the foregoing Answer of the City of Houston and the Greater Houston Partnership was served by mail on the parties named below.

  
Rebecca L. Taylor

R. Bruce Keiner, Jr.  
Thomas Newton Bolling  
Crowell & Moring  
1001 Pennsylvania Avenue, N.W.  
Washington, DC 20004  
(Continental Airlines)

Hershel I. Kamen  
Staff Vice President,  
International & Regulatory Affairs  
Continental Airlines, Inc.  
P.O. Box 4607 – HQSGV  
Houston, TX 77210

Henry C. Joyner  
Senior Vice President – Planning  
C. David Cush  
Vice President – International Planning  
and Alliances  
J. Otto Grunow  
Managing Director – International Affairs  
American Airlines, Inc.  
P.O. Box 619616  
DFW Airport, TX 75261

William K. Ris, Jr.  
Senior Vice President – Government  
Affairs  
Carl B. Nelson, Jr.  
Associate General Counsel  
American Airlines, Inc.  
1101 17<sup>th</sup> Street, N.W.  
Suite 600  
Washington, DC 20036

Robert E. Cohn  
Alexander Van der Bellen  
Shaw Pittman  
2300 N Street, N.W.  
Washington, DC 20037  
(Delta Airlines)

D. Scott Yohe  
Senior Vice President – Government  
Affairs  
Delta Air Lines, Inc.  
1275 K Street, N.W.  
Suite 1200  
Washington, DC 20005

Robert D. Papkin  
James V. Dick  
Squire, Sanders & Dempsey  
1201 Pennsylvania Avenue, N.W.  
Suite 400  
Washington, DC 20004  
(TACA)

Bruce Rabinovitz  
Jeffrey A. Manley  
Wilmer, Cutler & Pickering  
2445 M Street, N.W.  
Washington, DC 20037  
(United Airlines)